

REMARKS

Claims 1-8 and 10-22 are pending in this application. Reconsideration and allowance of this application are respectfully requested.

ENTRY OF AMENDMENT AFTER FINAL REJECTION

Entry of the amendment is requested under 37 CFR § 1.116 because the amendment: a) place the application in condition for allowance for the reasons discussed herein; b) do not raise any new issues requiring further search and/or consideration since the amendments amplify issues previously discussed throughout prosecution; c) do not present any additional claims without canceling the corresponding number of final rejected claims; and d) place the application in better form for appeal, if an appeal is necessary. Entry of the amendment is thus respectfully requested.

CLAIM REJECTIONS – 35 U.S.C. §102

Claims 1, 2 and 5-8 are rejected under 35 USC § 102(e) as being anticipated by Watanabe et al. (hereinafter “Watanabe”), U.S. Patent 6,503,794. This rejection is respectfully traversed.

Applicants submit that Watanabe fails to disclose or suggest a semi-conductor device, comprising, *inter alia*:

the second insulating layer includes a first sub-layer surrounding the first metal wiring and a second sub-layer formed on the capacitor, the first metal wiring and the first sub-layer, the second sub-layer including a lower layer that is formed substantially throughout the substrate and between the upper electrode and the first metal wiring, and an upper layer that is formed substantially throughout the substrate and over the upper electrode (emphasis added)

as recited in claim 1.

In the Final Office Action¹, the Examiner continued to assert that the insulating films 23, 33 and 37, and dielectric material 28 represents a “second insulating layer”, more specifically, the dielectric material 28 corresponds to the “lower layer”; and the insulating film 37 represents an “upper layer.”

¹ Final Office Action, paragraph bridging pages 5 and 6.

However, Applicants submit that the dielectric material 28 of Watanabe is not “an insulating layer”; but rather a dielectric material used to form the storage capacity element C.²

Even assuming *arguendo* that the dielectric material 28 may be considered an insulating layer (in which Applicants do not agree or admit to), it is submitted that Watanabe fails to disclose or suggest that the lower layer and the upper layer are formed substantially throughout the substrate, as recited in claim 1. Instead, the dielectric material 28 of Watanabe is merely formed between the electric conductor 25 and upper electrode 29 (see Fig. 1).

Accordingly, Watanabe fails to disclose or suggest “a lower layer that is formed substantially throughout the substrate and between the upper electrode and the first metal wiring, and an upper layer that is formed substantially throughout the substrate and over the upper electrode”, as recited in claim 1.

Because Watanabe fails to disclose each and every feature of the claimed invention, it cannot provide a basis for a rejection under 35 USC § 102.

For at least these reasons, Applicants submit that claim 1 is patentable. Claims 2 and 5-8 are allowable by virtue of their dependency on claim 1, and for the features recited therein. Reconsideration and withdrawal of the rejections are respectfully requested.

CONCLUSION

Accordingly, in view of the above amendments and remarks, reconsideration of the rejections and allowance of each of the claims in connection with the present application is earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number below.

² Applicants continue to submit that the dielectric material 28 of Watanabe is similar to the dielectric material 128 found in Applicants' invention (See FIG. 2 and paragraph [0044] of Watanabe et al.).

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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By 

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